

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JAY TABLANTE

Plaintiff,

v.

LIVING CELL RESEARCH, LLC

Defendant.

§
§
§
§
§
§
§
§
§
§

CIVIL ACTION NO. _____

COMPLAINT

Plaintiff, JAY TABLANTE ("Tablante") by and through undersigned counsel, hereby brings this Complaint against LIVING CELL RESEARCH, LLC, and states as follows:

1. This is an action arising under the Copyright Act, 17 U.S.C. §§ 501 and 1202.
2. This Court has subject matter jurisdiction over these claims pursuant to 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331, 1338(a).
3. The Defendant is subject to personal jurisdiction in Georgia.
4. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, the Defendant engaged in infringement in this district, and the Defendant is subject to personal jurisdiction in this district.

PARTIES

5. JAY TABLANTE ("Tablante") is a professional photographer, who provides high-end photography services and specializes in creating stunning glamour, modeling, and cosplay inspired photographs.

6. LIVING CELL RESEARCH, LLC d/b/a Live Cell Research ("LCR") is a California limited liability company with its principal office at 10866 Washington Blvd #815, Culver City, CA 90232 and a registered address of 409 Washington Blvd, Marina Del Rey CA 90292.

7. LCR offers various health supplements for sale to the public.

COPYRIGHTED WORK AT SSUE

8. On or about December 1, 2014, Tablante created the copyrighted photograph at issue in this action referred to herein as the "Work."

9. The Work is protected by copyright.

10. After Tablante created the Work, he added his copyright management information ("CMI") to the Work, which CMI included a digital watermark containing Tablante's photography business name "JT Photography."

11. The following is the Work showing Tablante's CMI in the lower right corner:



Attached hereto as Exhibit A.

12. After Tablante created the Work and added his CMI to it, he posted it on the internet on his photography fan page titled “Jay Tablante Photography.”

13. In March 2015, Tablante also published the Work in book form, when it was included in his photography book “Geekology 2.0.”

14. Tablante applied to register the Work with the Register of Copyright on August 19, 2015, and it was assigned registration number VA1-991-47.

INFRINGEMENT AND CIRCUMVENTION BY DEFENDANT

15. On or about May 25, 2015, Mr. Tablante began receiving numerous messages from his fans of his photography that the Work was being used in Google Advertisements on various websites.

16. Each of the Google Advertisements displaying the work were advertisements that directed consumers to websites owned by Defendant that advertising health supplements sold by LCR (hereinafter, “LCR Advertisements.”)

17. Each of the LCR Advertisements contained cropped versions of the Work, which had removed Tablante’s CMI watermark, and included the text “The Next Step In Evolution” and “Are You Ready? Watch Incredible Video.”

18. The following are examples of LCR Advertisements published on the internet that display different cropped versions of the work with no CMI:

“The Next Step In Evolution”




Are You Ready?
Watch Incredible Video 

Attached hereto as Exhibit B.

“The Next Step In Evolution”



Are You Ready?

[Watch Incredible
Video](#) 

Attached hereto as Exhibit C.

“The Next Step in Evolution”



Are You Ready?

[Watch Incredible Video >>](#)

Attached hereto as Exhibit D.

19. Each of the LCR Advertisements hyperlinks to a video advertisement for LCR's supplements located at a website owned and operated by Defendant:

<http://livecellresearch.com/livelonger-vb13a.php>

20. Tablante never gave LCR permission or authority to copy the Work, display the Work, or remove his CMI.

21. Tablante contacted LCR and requested it cease and desist from infringing the Work and compensate him for the use of his Work.

22. LCR failed to respond to Tablante's request and continued to publish the LCR Advertisements bearing his Work.

23. Tablante has engaged the undersigned attorneys and has agreed to pay them a reasonable fee.

COUNT I - COPYRIGHT INFRINGEMENT

24. Plaintiff incorporates the previous allegations as if set forth herein.

25. Tablante owns a valid copyright in the Work.

26. Tablante has applied to register the Work with the Register of Copyrights pursuant to 17 U.S.C. § 411(a), and has received federal registration number VA1-991-478. Attached hereto as Exhibit E.

27. LCR copied, displayed distributed and made derivatives of the Work without Tablante's authorization in violation of 17 U.S.C. § 501.

28. Tablante has been damaged and such damage is irreparable.

**COUNT II - REMOVAL OF
COPYRIGHT MANAGEMENT INFORMATION**

29. Plaintiff incorporates the previous allegations of this complaint as if fully set forth herein.

30. The Work contained Tablante's CMI.

31. LCR knowingly, and with the intent to enable or facilitate copyright infringement, repeatedly removed Tablante's CMI from the Work in violation of 17 U.S.C. § 1202(b).

32. LCR repeatedly removed Tablante's CMI knowing or having reasonable grounds to know it would enable, facilitate, or conceal infringement of Tablante's rights in the Work protected under the Copyright Act.

33. Tablante has been damaged and such damage is irreparable.

WHEREFORE, Tablante prays for judgment against LCR that:

- A. LCR and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. §§ 501 and 1202;
- B. During the pendency of this lawsuit, LCR recall from all recipients all copies of the Work, and account to Tablante the extent of infringement;
- C. During the pendency of this lawsuit the Court order the destruction, of all copies of the Work in possession, custody or control of LCR;
- D. LCR be required to pay Tablante his actual damages and/or statutory damages as provided in 17 U.S.C. §§ 504 and 1203.
- E. Tablante be awarded his attorneys' fees and costs of suit;
- F. Tablante be awarded further relief as the Court deems just.

DEMAND FOR JURY TRIAL

Tablante hereby demands a trial by jury for all issues triable.

DATED: May 13, 2016.

Respectfully submitted,

/s/Travis Tunnell

Travis Tunnell

ANDERSON DAILEY LLP

2002 Summit Boulevard, Suite 1250

Atlanta, Georgia 30319

404 442 1800

tunnell@andersondailey.com

Counsel for Plaintiff